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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Miriam Flores, individually and as parent of)
Miriam Flores, a minor child, et al.,)

Plaintiffs,)

vs.)

State of Arizona, et al.,)

Defendants.)

No. CIV 92-596-TUC-RCC

**STATE OF ARIZONA'S
RESPONSE TO MOTION TO
INTERVENE AND PROPOSED
BRIEFING SCHEDULE ON
UNDERLYING MOTION TO
PURGE**

More than a month ago, the State, on the record, said it had no objection to the Speaker's and the President's participation in these proceedings. *See* Tr. 1/27/06 at p. 6, ll 15-24. The Speaker and the President responded by making it clear that they had no intention of becoming parties. *See* Notice re Memorandum of the Speaker at 1. Now they have moved to intervene.

The State of Arizona takes no position on whether the motion satisfies the requirements of Rule 24 of the Federal Rules of Civil Procedure. Nor does the State



1 agree with all of the “factual” assertions and legal arguments and conclusions made in the
2 motion. The State, however, does not oppose the motion.

3 The Motion to Intervene attaches as Exhibit 1 a proposed Motion to “Purge the
4 State of Arizona of Contempt and Motion to Dissolve Injunction.” If the Court grants the
5 Motion to Intervene, then we ask that briefing on the Motion to Purge be set consistent
6 with the schedule established by the Court on Wednesday: Any responses by the existing
7 parties should be filed on March 24. The Speaker and the President can then file their
8 reply on March 31. We ask that the hearing now set for April 3 at 1:30 include any oral
9 argument on the Motion to Purge. We think this makes sense because the proposed
10 Motion to Purge focuses first on HB 2064, as will the briefs already ordered by the Court,
11 and second, on a matter of law, i.e., the Speaker’s and President’s claim that the No Child
12 Left Behind Act preempted this Court’s authority to issue an injunction.

13 RESPECTFULLY SUBMITTED this 10th day of March, 2006.

14
15 LEWIS AND ROCA LLP

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17 By s/ José A. Cárdenas

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CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2006, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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s/ Karen R. Wochos